

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 74731

Deonarine Deoraj
Marcia Deoraj

1307 Idylwood Road

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on July 21, 2010 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102.1, Zoning Commissioner's Policy Manual (ZCPM), failure to cease illegal service garage activity on residential property zoned DR5.5 known as 1307 Idylwood Road, 21208.

On June 23, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Jeffrey Radcliffe issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$3,000.00 (three thousand dollars).

The following persons appeared for the Hearing and testified: Marcia & Deonarine Deoraj, Respondents, Daryl Anthony, Complainant, Bernadine Sookhai, Neighbor and, Jeffrey Radcliffe, Baltimore County Code Enforcement officer. Mr. E. Pete Summerfield, Esq., appeared representing Respondents.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on March 21, 2010 for removal of untagged/inoperative motor vehicles, remove open dump/junk yard, remove contractor's equipment storage yard, cease service garage activities, illegal home occupation, remove trash and debris, remove car parts and tires. This Citation was issued on June 23, 2010.

B. Inspector Jeff Radcliffe testified that his initial inspection in March found two inoperative vehicles outside on this residential property. One vehicle had the hood and engine removed. He also found open dump conditions with car parts, tires, and other junk on the property. Re-inspection on April 10, 2010 found most of the junk and trash cleaned up, and no untagged vehicles. Re-inspection on May 12, 2010 found a fence had been installed around the carport area, but no violations. Re-inspection on June 23, 2010 found a vehicle inside the fence with the front end and bumper removed. Responding to questions from Respondents' attorney, Mr. Summerfield, Inspector Radcliffe further testified that minor car repairs like changing a tire or changing oil are permitted in residential areas but that service garage activities like pulling engines, transmissions, replacing bumpers and doing brake jobs are not permitted. Inspector Radcliffe testified that his re-inspection on July 15, 2010 found one car in the driveway under a tarpaulin and a second car in the street with part of the front bumper missing.

C. Mr. Daryl Anthony is a neighbor. He testified that Respondents started doing service garage work at their home in 2007, and testified that vehicles are being towed in. He testified that he has seen cars that are inoperable and are jacked up. He provided photographs of car repair activity. The photographs are dated in 2008 and 2009, and show various young men working on cars, including cars that are raised on portable jacks. Photographs in the County's code enforcement file indicate car repair activities in 2007, with a car raised on jacks.

D. Respondent Marcia Deoraj testified that her family owns five vehicles and all have valid tags. She testified that there are no tools on the premises and no work is being done on the cars. She further testified that her husband and one of their sons work in an automotive service garage, but they do not bring cars home. The fence was installed to keep their dog from running away. Respondent Deonarine Deoraj testified that a tow truck came only once to remove a vehicle.

E. Ms. Bernadine Sookhai is a neighbor who lives next door at 1309 Idylwood Road. She testified that she has lived there for 14 years, and was living there when Respondents moved in. She testified that she has not seen any activity that bothers her, and that she has not seen her neighbors change motors or put a car on a lift.

F. Review of the photographs in the file taken by the County inspector and the photographs submitted by Mr. Anthony shows that damaged and inoperative motor vehicles have been parked on this property, and that some car repair activities have been conducted on the property during the past three years. Inspector Radcliffe observed automobile parts and evidence of car repair activities during his March 21, 2010 inspection. Photographs taken in June 2010 show a silver sedan with the front bumper missing on June 9, 2010, with the front bumper piled on top of the hood on June 23, 2010 and then parked on the street with the bumper reinstalled on July 15, 2010. County zoning regulations prohibit the outside storage of inoperative motor vehicles on a residential lot. BCZR Section 428.1(A). Automotive service garages are not permitted in residential zones; a residential property can only be used for the storage of private motor vehicles and cannot be used to repair or equip vehicles. BCZR Section 101.1, Section 1B01.1.

G. Review of the evidence also shows only minimal evidence of violations occurring during the period covered by this Citation, March 2010 to July 2010. This Citation will be enforced, but because compliance is the goal of code enforcement, the civil penalty will be rescinded if re-inspections find no recurrence of prohibited activities during the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$500.00 (five hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if re-inspections between the date of this Final Order and December 15, 2010 find no recurring violations of service garage activities or the impermissible storage of inoperable motor vehicles on this residential property.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 19th day of August 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.